

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CARLOS ALVAREZ CHICAS, ALONSO
VILLATORO, MISAEAL ALEXANDER MARTINEZ
CASTRO, ANGEL MARTINEZ, EDWIN ULLOA
MOREIRA and MATEO UMAÑA individually and on
behalf of all others similarly situated,

Plaintiffs,

-against-

KELCO CONSTRUCTION, INC., KELCO
LANDSCAPING, INC., E.L.M. GENERAL
CONSTRUCTION CORP. D/B/A KELLY'S CREW,
JOHN KELLY and JOSEPH PROVENZANO,

Defendants.

Case No. 1:21-CV-09014
(PAE)(SDA)

**DECLARATION OF JOSE CANALES IN SUPPORT OF
DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR
CONDITIONAL CERTIFICATION PURSUANT TO 29 U.S.C. § 216(b)**

I, Jose Canales, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I submit this declaration in support of Defendants' Opposition to Plaintiffs' Motion for Conditional Certification pursuant to 29 U.S.C. § 216(b). I am personally familiar with the facts set forth below and submit this declaration based on my personal knowledge.
2. I am a resident of Brentwood, New York.
3. I currently work for Kelco Construction as a mason. I have been working for Kelco Construction since approximately 2013.
4. My duties as a mason include, but are not limited to installing concrete, bricks, and pavers for driveways and parks.
5. I am a union member of Local 1010.
6. I drive myself to 25 Newton Place, Hauppauge, New York ("Hauppauge facility")

in the morning, park my car at the Hauppauge facility, and get a ride to the jobsites in New York City from Kelco Construction.

7. I typically arrive at the Hauppauge facility at around 4:45 a.m. for the start of the workday. I did not perform any work at the Hauppauge facility prior to the workday at the jobsite.

8. I was picked up along with approximately three (3) or four (4) coworkers from the Hauppauge facility each workday.

9. I voluntarily go to the Hauppauge facility to get a ride into work because it is easier for me to get to jobsites by commuting on a company vehicle with other coworkers. Kelco Construction did not require me to get to work on the company vehicle.

10. Depending on the traffic, it takes about thirty minutes to travel from the Hauppauge facility to the jobsites in New York.

11. On average, I arrive at the jobsite by approximately 5:20 a.m. each workday and to start work at approximately 6:30 a.m. or 7:00 a.m.

12. It takes approximately one and one-half (1 ½) to two (2) hours to travel back to the Hauppauge facility from the jobsite due to traffic.

13. I regularly work for Kelco Construction five (5) days per week, eight (8) hours per day.

14. At times, I worked over forty (40) hours in a week. However, this did not happen frequently. When I work over forty (40) hours in a week, I am paid for those hours at an overtime rate.

15. I am paid hourly at a rate of approximately \$44.00 from Kelco Construction.

16. My primary language is Spanish. On January 25, 2023, Luis Lopez, CCI verbally translated this declaration to me in Spanish. I fully understand the contents of this declaration in

my primary language.

17. This declaration was prepared by counsel for Defendants in the action based on an interview in which I voluntarily participated. I was advised that I could end the interview at any time. I have also been told by counsel for the Defendants that I should sign this declaration if I want to and if everything within it is true and correct to the best of my knowledge, information, and belief. I have been given a full opportunity to review this declaration carefully and freely and make any corrections and additions of any kind.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: January 25, 2023

JOSE CANALES
Jose Canales